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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,116	12/29/2000	Katsumi Maeda	NEC99P156-ms	6329

7590

12/04/2002

McGinn & Gibb, PLLC
Suite 200
8321 Old Courthouse Road
Vienna, VA 22182-3817

EXAMINER

ASHTON, ROSEMARY E

ART UNIT

PAPER NUMBER

1752

DATE MAILED: 12/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,116

Applicant(s)

MAEDA ET AL.

Examiner

Rosemary E. Ashton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. Due to applicant's submission of a certified translation of the JP priority document all claims are now allowable, however, an interference with the prior art of Hagesawa is necessary as some of applicant's claims read on the claims of the prior art.
2. In order for a proper interference to occur the examiner notes the instant application is a continuation of international application PCT/JP99/03580 filed July 2, 1999. Several corrections applicant needs to make are cited in section 1895 of the MPEP, below:

To obtain benefit under 35 U.S.C. 120 of a prior PCT application designating the U.S., the continuing U.S. national application must

(A) include an appropriate reference to the prior PCT application (either in the application data sheet (37 CFR 1.76) or in the first sentence of the specification),

(B) include an indication of whether the prior PCT international application was published under PCT Article 21(2) in English in the first sentence of the specification regardless of whether benefit for such application is claimed in the application data sheet (if the continuing U.S. national application was filed on or after November 29, 2000),

(C) be co-pending with the prior PCT application, and

(D) have at least one inventor in common with the prior PCT application.

Additionally, the examiner requests a copy of the international application and an English translation of the application as required in section 1895.01 of the MPEP, cited below:

The continuing application must be filed before the international application becomes abandoned as to the U.S. as set forth in 37 CFR 1.494 and 1.495. An appropriate sentence (such as "This is a continuation of International Application PCT/EP90/00000, with an international filing date of January 4, 1990, published in English under PCT Article 21(2) and now abandoned.") must appear in the first sentence of the specification.

In addition, all other conditions of 35 U.S.C. 120 (such as having at least one common inventor) must be satisfied. A copy of the international application (and

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an English translation) may be required by the examiner to perfect the claim for benefit under 35 U.S.C. 120 and 365(c) if necessary, for example, where an intervening reference is found and applied in a rejection of one or more claims.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosemary E. Ashton whose telephone number is 308-2057. The examiner works a flexible work schedule and can normally be reached M-F between 10:00 am and 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Baxter can be reached on 308-2303. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0661.



Rosemary E. Ashton
Primary Examiner
Art Unit 1752

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December 2, 2002

ROSEMARY ASHTON
PRIMARY EXAMINER